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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,836	02/17/2004	Brian G. Balistee	6579-0041-1	9136

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EXAMINER

BLAKE, CAROLYN T

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/779,836

Applicant(s)

BALISTEE ET AL.

Examiner

Carolyn T. Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment and remarks filed on November 13, 2006.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

3. Claim 1 is objected to because of the following: The phrase "said plurality of micro-shaving surfaces" lacks proper antecedent. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Staley (3,951,012).

Staley discloses a micro-replicated shaving surface as claimed, including: a substrate (base in FIGS 3, 4); a plurality of longitudinal micro-shaving elements (triangular components comprising surfaces 10 and 12) projecting outwardly from a surface of the substrate, said micro-shaving elements being arranged in at least one row with each micro-shaving element being spaced away from and approximately parallel to the next successive micro-shaving element and arranged transverse to a direction of shaving; wherein each of said plurality of micro-shaving elements defines a cutting edge (16) extending longitudinally thereof for cutting hair from a user's skin during a shaving operation; and at least one longitudinal micro-shaving element defines a substantially triangular cross section having a leading surface (10) inclined at an acute first rake angle; and wherein said substrate and said plurality of micro-shaving shaving

surfaces are unitary and made from a first material. The blades disclosed by Staley are capable of shaving as claimed.

Regarding claim 2, Staley discloses the substrate and micro-shaving elements are metallic.

Regarding claim 5, Staley discloses said longitudinal micro-shaving elements further define a trailing surface (12) inclined at a second rake angle.

Regarding claim 6, the first and second rake angles appear to be different.

Claim Rejections - 35 USC § 103

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staley as applied to claim 1 above, and further in view of Orloff (5,983,756).

Staley discloses sharpening the cutting edge, but fails to disclose electro-chemical machining. However, Orloff discloses forming a cutting edge by electro-chemical machining. Electro-chemical machining allows for finer detail in the work piece than traditional grinding operations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the cutting edge of the Staley device using electro-chemical machining, as disclosed by Orloff, in order to create fine detail.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staley as applied to claim 1 above, and further in view of Polk et al.

Staley discloses a shaving surface substantially as claimed, but fails to expressly disclose the micro-shaving elements are coated with a second material. However, Polk et al disclose it is old and well known in the art to use a metal coated with amorphous

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metal because compositions with high as-formed hardness, ductility, a high elastic limit, and good corrosion resistance can be selected. Also, amorphous metals are more homogenous than common crystalline materials for the dimensions characteristic of the sharpened edge of a razor blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the micro-shaving elements of the Staley device from metal coated with amorphous metal because amorphous metal has positive hardness, ductility, elasticity, and corrosion characteristics for razor blades.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's argument that a filing device cannot be considered a micro-replicated shaving surface, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the structure shown in FIG 1 of Applicant's device and FIG 3 of Staley appear to be nearly identical. Both devices are manufactured from metal and contain cutting edges. While the file of Staley cuts small pieces of a material from a work piece, the micro-replicated shaving surface of the instant invention cuts small pieces of hair from a user.

While differences may exist between Applicant's invention and the prior art of record, these differences have not been set forth in the claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Thursday, 7:00 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

February 1, 2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER